vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.9335 OF 2005

M/s.Dees Service ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr.B.G. Tangsali for Petitioner
Mr.P.P. Kakade, AGP, for Respondents

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

DATED: **JANUARY 25, 2006**

P.C.:

. By this petition, the Petitioner seeks direction to the Respondent - Regional Transport Authority - accept the applications of the petitioner for no objection certificate to take its vehicles out of the precincts of Greater Mumbai. The permission sought is one-time exit permission.

2. Even earlier several such petitions have been filed and orders passed directing issuance of no objection certificate for one-time exit of the vehicles, plying of which is banned by a Division Bench judgment of this court. In spite of such direction implicitly passed, the Regional Transport Authority, Mumbai, is unnecessarily insisting on each such applicant obtaining

an order of the Court for issuance of such no objection certificate. In our opinion, after a reasoned order was passed by this Court in Writ Petition No.7867 of 2005 and other matters on 9th December, 2005, such occasion ought not to have arisen.

3. In those matters, an affidavit-in-reply has been filed by the State where, apart from the order made by this Court, an affidavit filed by the Transport Commissioner, Maharashtra State in Writ Petition No.1762 of 1999 has been annexed wherein it is observed that the Government has evolved a scheme whereby the orders of this Court requiring the vehicles above eight years of age to be fitted with CNG/LPG kits before a particular date are properly implemented causing nominal possible loss to the vehicle owners who desire to take their vehicles out of the precincts of Greater Mumbai. In the said affidavit, the Transport Commissioner, Maharashtra State, has stated what the State desires to do in consultation with the owners of vehicles registered in Mumbai and have completed or are about to complete eight years of age. It is necessary that the entire statement on affidavit is considered verbatim. It reads thus:-

> "(C) For the vehicles registered in Mumbai they have to get converted on CNG/LPG before

> completing 8 years of age or they have to move out of Mumbai by obtaining N.O.C. otherwise the registration of vehicles is treated as cancelled and the vehicles scrapped.
> In case such vehicles are found plying in Mumbai the punishment is suggested hereinabove in para 'B' (of the affidavit). In case the vehicles are not found plying in Mumbai and the owners thereof desire to take the vehicles out of Mumbai, it is suggested that instead of cancelling their registration and treating them as scrapped, which is a loss of National Wealth, those vehicles may be allowed to go out of Mumbai by issuing N.O.C. even after completing 8 years of age."

4. From the above, it will be seen that the Government would consider application for giving no objection certificate for taking the vehicles out of Mumbai even after the vehicle has completed 8 years of age and would consider granting of such permission on each individual application. That being the factual position averred on oath by the Transport Commissioner, Maharashtra, we dispose of this petition by directing the petitioner to make such application as contemplated by (C) above within a period of two weeks from today. We further direct the respondents to accept and consider the application in accordance with the statement made on affidavit, which is quoted above, within a period of two weeks thereafter.

5. We also direct the respondent-Regional Transport Authority-not to drive such applicants - claimants for

for one-time exit no objection to Court for obtaining orders, which have already been effectively passed. The Regional Transport Authority shall decide the applications on merits in accordance with law.

6. The petition is accordingly disposed of.